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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,042	06/29/2006	John Alexandre Boudry	MARKS 5322	1036
27667 7590 11/23/2009 HAYES SOLOWAY P.C. 3450 E. SUNRISE DRIVE, SUITE 140 TUCSON, AZ 85718				
EXAMINER BOCHNA, DAVID				
ART UNIT 3679		PAPER NUMBER		
NOTIFICATION DATE 11/23/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/596,042

Applicant(s)

BOUDRY ET AL.

Examiner

David E. Bochna

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-72 and 74-88 is/are pending in the application.
- 4a) Of the above claim(s) 20-59 and 87 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 88 is/are allowed.
- 6) ☒ Claim(s) 60, 62, 68-71, 74-78 and 83-86 is/are rejected.
- 7) ☒ Claim(s) 61, 63-67, 72 and 79-82 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claim 64 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 75 and 77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 77, it is unclear how the flanges can be formed from a polymer resistant to fuel when in claim 60 it is recited that the flanges are formed of a non-plastic material.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 60, 62, 68-71, 74-78 and 83-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Rowe '656.

In regard to claim 60, Rowe discloses a fitting for providing a substantially fluid tight seal between an opening in a chamber wall and a pipe assembly, said fitting comprising:

(i) a first portion 26 comprising a radially extending first flange 50, a first surface of said first flange being configured to contact the chamber wall 12 around substantially the entire circumference of the first flange 50, said first flange being formed of a non-plastic material (see col. 11, line 58) and being adapted to bond to glass reinforced plastic, the first portion further comprising a tubular portion 48 extending away from the flange, and a tubular sleeve 60 formed from an electrofusible plastics material, said tubular sleeve being joined in a substantially fluid tight seal (via 32) to the tubular portion 48 and adapted to couple the fitting to the pipe assembly 18;

(ii) a second portion 38 comprising a radially extending second flange 22, a first surface of said second flange being configured to contact the chamber wall 12 around substantially the entire circumference of the second flange, said second flange being formed of a non-plastic material (see col. 9, lines 15-16) and being adapted to bond to glass reinforced plastic; and

(iii) a coupling device (threads 39 and 46) adapted to secure the first portion to the second portion.

In regard to claim 62, wherein the tubular portion 48 and tubular sleeve 60 of the first portion overlap for a proportion of their length, the fluid tight seal between the tubular portion and tubular sleeve being formed in that overlapping region.

In regard to claim 68, wherein the first flange 50 is an integral part of the first portion 26.

In regard to claim 69, wherein the first flange 50 is adapted to be secured to the chamber wall by an adhesive.

In regard to claim 70, wherein the second portion 38 further comprises a second tubular portion 36 or collar extending away from the second flange.

In regard to claim 71, wherein the second flange 22 is an integral part of the second portion 36.

In regard to claim 74, wherein the first flange and first tubular portion are made of a metal (see col. 11, line 58).

In regard to claim 75, wherein the first flange and first tubular portion are made of stainless steel, coated steel, aluminum, coated aluminum (see col. 11, line 58) or glass reinforced plastic itself or a plastics material that bonds satisfactorily to glass reinforced plastic.

In regard to claim 76, wherein the first flange and first tubular portion and the second flange and second tubular portion or collar are formed from substantially the same material (they are of one piece construction).

In regard to claim 77, wherein the tubular sleeve 60 is formed from polyethylene and the flanges are formed from stainless steel, coated steel (see col. 11, line 58) or a polymer resistant to fuel.

In regard to claim 78, wherein the coupling device comprises complementary screw threaded regions 39, 46 on the first and second portions such that the two portions screw together, clamping the chamber wall(s) 12 between the first and second flanges.

In regard to claim 83, wherein the fitting further comprises a test point valve 66.

In regard to claim 84, wherein the pipe assembly is secondarily contained pipe assembly comprising a primary supply pipe contained within a secondary pipe (the claim is only positively drawn to the fitting and not the fitting in combination with the pipe assembly, the fitting of Rowe could be coupled around a primary and secondary pipe assembly, and is thus deemed to anticipate the claim).

In regard to claim 85, wherein the said pipe assembly is a primary supply pipe (claim is only positively drawn to the fitting).

In regard to claim 86, incorporated into an underground pipework system (see fig. 5).

Allowable Subject Matter

6. Claims 61, 63-67, 72, 79-82 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claim 88 is allowed.

Response to Arguments

8. Applicant's arguments with respect to claims 60, 62, 68-71, 74-78 and 83-86 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Bochna whose telephone number is (571) 272-7078. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David E. Bochna/
Primary Examiner, Art Unit 3679